**The Judicial Process**

POLI 4740-43769

Spring 2018

Monday/Wednesday/Friday 10:10-11:00

Instructor **Dr.** **A.J. Barghothi**

Office: Baldwin 380G

Office hours: Mondays 9:00am- 10:00am and Wednesday & Friday 11:10 am - 12:10 pm (or by appointment)

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**Course Description:**

This course is an introduction to the judicial process and politics in the United States. Courts in the US are important governmental institutions with significant policymaking power. This course provides a broad survey of theoretical and substantive knowledge in the field of judicial politics. We will address several topics in this course, including: the role of law in American society; the organization and development of the federal and state court systems; the development and functions of norms as they pertain to judicial selection, setting the Court’s agenda, judicial decision making, the role of judges as political actors, the roles of lawyers, law clerks, and interest groups in the judicial process and limitations placed on judges by other institutions (Congress and the president). While the primary emphasis of the course is the United States Supreme Court we will also discuss lower federal courts and state courts.

**Reading Materials:**

The reading materials for this course include three required books and several readings which can be found posted on the course Blackboard site. Students should purchase the Baum, the Carp, Stidham, and Manning and the Epstein and Knight books. All books are currently available at the campus

bookstore, although you might also choose to purchase the texts from a web-based bookstore.

* *Required**Texts*:

Baum, Lawrence. 2016. *The Supreme Court*. 12th ed. Thousand Oaks, CA: CQ Press.

Carp, Robert A., Ronald Stidham, Kenneth L. Manning and Lisa M. Holmes. 2017. *Judicial*

*Process in America*. 10th ed. Thousand Oaks, CA: CQ Press.

Epstein, Lee, and Jack Knight 1998. *The Choices Justices Make*. Washington, DC:

CQ Press

**Course Requirements & Policies:**

* *Attendance and Class Participation*: Attendance will be taken at the beginning of every class. Students are expected to attend all classes as you are responsible for all of the material covered in class on the two tests and the final exam. If you do miss a class, you should obtain a copy of class notes from a classmate because you are expected to know all course material for the tests and exam. I will not reply to student emails requesting my notes for missed classes. Eleven percent of your final grade will be determined by class participation. All students are expected to thoughtfully participate in class discussion. Your participation will enhance the class lectures by incorporating your own understanding of readings and any questions or statements you may have about the material. While attendance is a prerequisite for participation, attendance is *not* participation. You should be prepared each class session to be randomly called on to discuss specific facts and legal decisions for the cases assigned each day. The participation portion of

your final grade will be based on the following scale and criteria:

* + **A**: A student attends virtually all class sessions (fewer than two absences) for the full amount of time and participates in class discussions by answering questions and

offering insightful comments or asking questions during most class sessions.

* + **B**: A student attends a significant portion of class sessions (fewer than four absences) and participates in class discussions by answering questions and offering insightful

comments or asking questions during some class sessions.

* + **C**: A student misses a significant portion of class sessions (more than four absences) and was only marginally prepared for class and participates in class discussions infrequently—answering questions only when called upon and rarely offering

meaningful comments or questions during class sessions.

* + **D**: A student misses a significant portion of class sessions (more than six absences) and was only marginally prepared for class and participates in class discussions infrequently—answering questions only when called upon and rarely offering

meaningful comments or questions during class sessions.

* + **F**: A student misses a significant portion of class sessions (more than eight absences) and was unprepared for class, never participating in class discussions or answering

questions.

* *Quizzes*: A number of quizzes will be given throughout the semester, in order to ascertain students’ comprehension of the course material. Your lowest quiz grade will be dropped from your final grade. No make-up quizzes will be given; if you miss a class when a quiz is given you will receive a zero for that quiz. Thirteen percent of your final grade will be determined by your

quiz average.

* *Tests and Exams*: Two tests and a final exam will be given for this course. The first test (tentatively scheduled for Friday, February 9) will constitute eighteen percent of your final grade. The second test (tentatively scheduled for Monday, April 2) will constitute twenty-five percent of your final grade. A comprehensive final exam, constituting thirty-three percent of your final grade, will be given on the scheduled exam date for this course, Wednesday, May 2 (8:00am-11:00am).The tests and exam will integrate materials from class lectures and discussions, and readings. The tests and exam will include true-false, multiple choice, definitions, and short essay questions. **Make-up tests and exams will be given only in extreme circumstances and on a**

**case by case basis at the instructor’s convenience.**

* *Disability Statement*: If you have a physical, learning, or psychological disability and require accommodations, please make me aware of your situation as soon as possible. You must register with, and provide documentation of your disability to University Disability Resource

Center in Clark Howell Hall.

* *Academic Honesty*: The University of Georgia is built upon a strong foundation of integrity, respect and trust. All members of the university community have a responsibility to be honest and the right to expect honesty from others. Any form of academic dishonesty is unacceptable to our community and will not be tolerated. Academic dishonesty (including plagiarism and all other offenses listed under University’s policy on academic honesty) will not be tolerated. Any violations of University policy will be handled through University procedures. For more information on the University policy see *A Culture of Honesty at the University of Georgia* issued by the Office of the Vice President for Instruction at: <https://ovpi.uga.edu/academic-honesty>

**Evaluation:**

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| --- | --- | --- | --- |
| Participation | 11% |  |  |
| Quizzes | 13% |  |  |
| Test 1 | 18% |  |  |
| Test 2 | 25% |  |  |
| Final Exam | 33% |  |  |
|  | 100% |  |  |

Your final grade will be assigned in the following manner:

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| --- | --- | --- |
| A 93-100 | A- 90-92 |  |
| B+ 87-89 | B 83-86 | B- 80-82 |
| C+ 77-79 | C 73-76 | C- 70-72 |
| D 60-69 | F 0-59 |  |

**Tentative Class Schedule**

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| --- | --- |
| Friday, January 5 | Class introduction |
| Monday, January 8 | *Law and Courts in America*   * Carp, Stidham, & Manning Chapter 1 * Hamilton “The Federalist” No. 78 (eLC) * *Marbury* v. *Madison* (1803) (eLC) |
| Wednesday, January 10 | *Law and Courts in America* (continued)   * Abortion cases Epstein & Walker pp 407-431 (eLC) * Federalism cases Epstein & Walker pp 448-455 (eLC) * Private Sexual Activity cases Epstein & Walker pp 435-444 (eLC) |
| Friday, January 12 | *Law and Courts in America* (continued) |
| Monday, January 15 | **No class**—Dr. Martin Luther King, Jr. Day |
| Wednesday, January 17 | *The US Supreme Court in context*   * Baum Chapter 1 * Carp, Stidham, & Manning pp. 23-30 |
| Friday, January 19 | *The US Supreme Court in context* (continued) |
| Monday, January 22 | *Becoming a Supreme Court Justice*   * Baum Chapter 2 * Carp, Stidham, & Manning Chapter 6 * Slotnick, “A Historical Perspective on Federal Judicial Selection,” (eLC) |
| Wednesday, January 24 | *Becoming a Supreme Court Justice* (continued)   * Epstein & Segal Chapters 3 & 4 (eLC) |
| Friday, January 26 | *Becoming a Supreme Court Justice* (continued) |
| Monday, January 29 | *The Supreme Court’s Agenda*   * Baum Chapter 3 * Provine, “Deciding What to Decide: How the Supreme Court Sets its Agenda,” (eLC) |
| Wednesday, January 31 | *The Supreme Court’s Agenda* (continued)   * Perry *Deciding to Decide* Chapters 8 & 9 (eLC) |
| Friday, February 2 | *The Supreme Court’s Agenda* (continued)   * O’Brien, “The Rehnquist Court’s Shrinking Plenary Docket,” (course website) |
| Monday, February 5 | *The Supreme Court’s Agenda* (continued) |
| Wednesday, February 7 | Test 1 Review |
| Friday, February 9 | **Test 1** |
| Monday, February 12 | *Supreme Court Decisionmaking—Introduction*   * Baum pp 104-120 |
| Wednesday, February 14 | *Supreme Court Decisionmaking—The “Legal Model”* |

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| Friday, February 16 | *Supreme Court Decisionmaking—The “Legal Model”* (continued)   * Gates & Phelps “Intentionalism in Constitutional Opinions,” (eLC) * Segal & Spaeth “**The Influence of Stare Decisis on the Votes of United States Supreme Court Justices,”** (eLC) |
| Monday, February 19 | *Supreme Court Decisionmaking—The “Attitudinal Model”*   * Baum pp 120-128 * Segal & Spaeth. *The Supreme Court and the Attitudinal Model Revisited*, Chapters 2 & 7 (eLC) |
| Wednesday, February 21 | *Supreme Court Decisionmaking—The “Attitudinal Model”* (continued) |
| Friday, February 23 | *Supreme Court Decisionmaking—The “Strategic Model”*   * Baum pp 129-140 * Epstein & Knight Chapters 1-4 |
| Monday, February 26 | *Supreme Court Decisionmaking—The “Strategic Model”* (continued) |
| Wednesday, February 28 | *Supreme Court Decisionmaking--Conclusion* |
| Friday, March 2 | *The Supreme Court in the political environment—Congress & the president*   * Baum pp 141-144 & 179-205 * Epstein & Knight Chapter 5 * Slotnick, “The Courts and There Publics,” (eLC) |
| Monday, March 5 | *The Supreme Court in the political environment—Congress & the president* (continued)   * Hettinger and Zorn “Explaining the Incidence and Timing of Congressional Responses to the U.S. Supreme Court,” (eLC) |
| Wednesday, March 7 | *The Supreme Court in the political environment—Congress & the president* (continued)   * Bailey, Kamoie, & Maltzman. “Signals from the Tenth Justice: The Political Role of the Solicitor General in Supreme Court Decision Making,” (eLC) * McGuire “Explaining Executive Success in the U.S. Supreme Court,” (eLC) |
| Friday, March 9 | *The Supreme Court in the political environment—Public Opinion*   * Carp, Stidham, & Manning Chapter 7 |
| Monday, March 12 | **No class**—Spring Break |
| Wednesday, March 14 | **No class**—Spring Break |
| Friday, March 16 | **No class**—Spring Break |
| Monday, March 19 | *The Supreme Court in the political environment—Public Opinion* (continued)   * Caldeira & Gibson “The Etiology of Public Support for the Supreme Court,” (eLC) * Mishler & Sheehan “The Supreme Court as a Countermajoritarian Institution? The Impact of Public Opinion on Supreme Court Decisions,” (eLC) |
| Wednesday. March 21 | *The Supreme Court in the political environment—Interest Groups, Litigants and Lawyers*   * Carp, Stidham, & Manning Chapter 8 |
| Friday, March 23 | *The Supreme Court in the political environment—Interest Groups* *Litigants and Lawyers* (continued)  Sprigs & Wahlbeck “Amicus Curiae and the Role of Information at the Supreme Court,” (eCL) |
| Monday, March 26 | *The Supreme Court in the political environment—Interest Groups* *Litigants and Lawyers* (continued)   * McGuire “Repeat Players in the Supreme Court: The Role of Experienced Lawyers in Litigation Success,” (eLC) * Songer & Sheehan “Who Wins on Appeal? Upperdogs and Underdogs in the United States Courts of Appeals,” (eLC) |
| Wednesday, March 28 | Test 2 Review |
| Friday, March 30 | Catch-up Day |
| Monday, April 2 | **Test 2** |
| Wednesday, April 4 | *The Supreme Court and Public Policy*   * Baum Chapters 5 & 6 |
| Friday, April 6 | *The Supreme Court and Public Policy* (continued)   * Carp, Stidham, & Manning Chapters 14 |
| Monday, April 9 | *The Supreme Court and Public Policy* (continued)   * McGuire “Public Schools, Religious Establishment, and the U.S. Supreme Court: An Examination of Policy Compliance,” (eLC) |
| Wednesday, April 11 | *Lower Federal Courts—District Courts*   * Segal, Speath, and Benesh, “The U.S. District Courts,” (eLC) |
| Friday, April 13 | *Lower Federal Courts—Circuit Courts*   * Segal, Speath, and Benesh, “The U.S. Courts of Appeals,” (eLC) |
| Monday, April 16 | *State Courts—Introduction*   * Carp, Stidham, & Manning Chapters 3 & 5 * Abrahamson, “The State of State Courts,” (eLC) |
| Wednesday, April 18 | *State Courts—Selection and Retention*   * Baum “Electing Judges,” (eLC) * Aspin, “Trends in Judicial Retention Elections, 1964-1998,” (eLC) |
| Friday, April 20 | *State Courts—Decisionmaking*   * Hall “**Electoral Politics and Strategic Voting in State Supreme Courts,”** (eLC) * Savchak & Barghothi “The Influence of Appointment and Retention Constituencies: Testing Strategies of Judicial Decisionmaking,” (eLC) |
| Monday, April 23 | Catch-up Day |
| Wednesday, April 25 | Final Review |
| Wednesday, May 2  **8:00am-11:00am** | **Final Exam** |